

REMARKS

At the outset, the Examiner is thanked for the thorough review and consideration of the pending application. The Office Action dated October 12, 2007 has been received and its contents carefully reviewed.

No claims are hereby amended, added or cancelled. Accordingly, claims 1-23 are currently pending. Of those, claims 16-23 have been withdrawn from prosecution. Reexamination and reconsideration of the pending claims is respectfully requested.

The Office has rejected claim 1 under 35 U.S.C. § 102(b) as being anticipated by Japanese Publication No. 11-164986 to Shunichi *et al.* (hereinafter *Shunichi*). Office Action at ¶ 7. *Shunichi* fails to disclose at least a “leg pad [that] includes:

- a first member in contact with a floor having the washing machine installed thereon, and
- a second member in contact with the first member, wherein one of the first member and the second member is formed of a block copolymer of hard blocks and soft blocks, and
- the other one of the first member and the second member is formed of a second material.

as recited in independent claim 1.

The Office asserts that *Shunichi* discloses “legs (32) fitted to the bottom of the cabinet, leg pads comprising a first member contacting the floor and comprising hard blocks (44) and soft blocks (43) in contact with each other (readable on block copolymer) and a second member (42) in contact with the first member.” Office Action at ¶ 8. Applicants respectfully traverse the Office’s assertion of anticipation of claim 1 for several reasons.

First, it is noted that the *Shunichi* reference provided by the Office is written in Japanese, and only an English abstract has been provided. While the abstract describes several reference characters, it does not describe the above noted reference characters, i.e. at least 44, 43, and 42. Applicants note that MPEP 706.02 (II) requires that:

To determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed. If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection. The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection. The rationale for this is several-fold... [it is possible] that the full text document will include teachings away from the invention that will preclude an obviousness rejection under 35 U.S.C. 103, when the abstract alone appears to support the rejection. (*emphasis added*)

Applicants request compliance with the above provision and request that the Examiner provide a translation of the *Shunichi* reference, including a citation as to where *Shunichi* allegedly discloses the above limitations.

Applicants respectfully contend that *Shunichi* does not anticipate the invention as claimed. *Shunichi*, as best understood, discloses a first member made of a rubber 44 having a high hardness, and a second member made of a rubber 43 having a low hardness. Reference character 42 does not represent a member separate from the rubber materials 44 and 43, but in fact represents a portion of the second member having a rubber 43 of low hardness. Therefore *Shunichi* does not disclose one member made of both a low hardness rubber 43 and a high hardness rubber 44, and a separate member 42 made of a third material.

Even if *Shunichi* did disclose such a structure, which it does not, this still would not satisfy the limitations of claim 1, because *Shunichi* does not disclose a “block copolymer,” or further a “block copolymer of hard blocks and soft blocks” as recited in claim 1. The Office, however, contends that “the law of anticipation does not require that the reference teach what applicant is claiming, but only that the claims ‘read on’ something disclosed in the reference.” Office Action at ¶ 3. Applicants respectfully submit that it has been well-established by the courts that, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, (Fed. Cir. 1987). *Shunichi* does not disclose each and every element claimed and therefore cannot be found to anticipate the claimed subject matter.

In supporting the above assertion that *Shunichi* anticipates the claimed invention the Office states that “terminology in a pending application’s claims is to be given its broadest reasonable interpretation... and limitations from a pending application’s specification will not be read into the claims.” Office Action at ¶ 2. The Office cites *In re Zletz*, 893 F.2d 319 (Fed. Cir.1989) for support of this issue, but Applicants submit that the Office is misconstruing the holding in *Zletz*. The MPEP §2111.01(II) discusses the holding in *Zletz* as follows:

In *In re Zletz, supra*, the examiner and the Board had interpreted claims reading "normally solid polypropylene" and "normally solid polypropylene having a crystalline polypropylene content" as being limited to "normally solid linear high homopolymers of propylene which have a crystalline polypropylene content." The court ruled that limitations, not present in the claims, were improperly imported from the specification.

Applicants note that the scope of claims in patent applications is based not solely on the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004); *see also* MPEP §2111. Further Applicants agree that it has been held that "[t]hrough understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment." *Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875, (Fed. Cir. 2004).

The present case, however, is distinguished from *Zletz* in that the claim language is not broader than an embodiment disclosed in the specification. Rather claim 1 recites, “one of the first member and the second member is formed of a block copolymer of hard blocks and soft blocks,” and the specification recites at least “[a]s a result of study on the material of the leg pad for solving above problems the inventor finds out that use of a block copolymer of hard blocks and soft blocks is very effective as the material of the leg pad.” Specification at ¶ [0042]. *Shunichi*, however, does not disclose that a block copolymer of hard and soft blocks is used. Rather *Shunichi* only discloses that rubber substances are used. In fact, the Office even admits

that “SHUNICHI discloses the use of elastomeric polymers as vibration dampers... but does not expressly disclose any material detail of the polymer compositions.” Office Action at ¶ 12 (emphasis in original). It does not inherently follow that all “rubbers” are block copolymers, and therefore *Shunichi* fails to anticipate the claimed invention.

Applicants respectfully submit that claim 1 is patentably distinguishable over *Shunichi*. Accordingly, Applicants respectfully request that the Office withdraw the 35 U.S.C. § 102(b) rejection of claim 1.

The Office has rejected claims 2, 3, and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over *Shunichi* in view of U.S. Patent No. 6,028,147 to Ogawa *et al.* (hereinafter *Ogawa*). Office Action at ¶ 10. As stated above, *Shunichi* fails to disclose at least a “leg pad [that] includes:

- a first member in contact with a floor having the washing machine installed thereon, and
- a second member in contact with the first member, wherein one of the first member and the second member is formed of a block copolymer of hard blocks and soft blocks, and the other one of the first member and the second member is formed of a second material.

as recited in claims 2, 3, and 11-14 by virtue of their dependencies from independent claim 1. *Ogawa* fails to cure the above deficiencies of *Shunichi*. Indeed, *Ogawa* was offered by the Office for its purported teaching of using butyl rubber with block copolymers. *Id.*

For at least the above-recited reasons, Applicants respectfully submit that claim 1 is patentably distinguishable over *Shunichi* in view of *Ogawa*. Claims 2, 3, and 11-14, which depend either directly or indirectly from claim 1, are also patentably distinguishable for at least the same reasons as discussed above. Accordingly, Applicants respectfully request that the Office withdraw the 35 U.S.C. § 103(a) rejection of claims 2, 3, 11-14.

The Office has rejected claims 4-7 under 35 U.S.C. § 103(a) as being unpatentable over *Shunichi* and *Ogawa* in view of U.S. Patent No. 6,746,780 to Rieger *et al.* (hereinafter

Rieger). Office Action at ¶ 11. As stated above, *Shunichi* in view of *Ogawa* fail to disclose at least a “leg pad [that] includes:

- a first member in contact with a floor having the washing machine installed thereon, and
- a second member in contact with the first member, wherein one of the first member and the second member is formed of a block copolymer of hard blocks and soft blocks, and
- the other one of the first member and the second member is formed of a second material.

as recited in independent claim as recited in claims 4-7 by virtue of their dependencies from independent claim 1. *Rieger* fails to cure the deficiencies of *Shunichi* and *Ogawa*.

Rieger relates to articles comprising bodies of elastic polymeric material. *Rieger* at Abstract. *Reiger* describes polyolefinic homopolymer materials. As described by Reiger:

The term "polyolefinic homopolymer" as used herein refers to those polyolefins which comprise only one phase of molecules all of which exhibiting a similar stereochemical configuration. For example, blends of atactic and isotactic polymers where the two phases have polymerized simultaneously are excluded when this term is used. The term homopolymer includes copolymers where all molecules exhibit a similar stereochemical configuration.

Rieger at col. 2, lines 60-67. *Rieger* fails to describe at least a “block copolymer of hard blocks and soft blocks” or the “leg pad” as recited in claim 1. Indeed, *Rieger* was not offered for such a disclosure, rather *Rieger* was offered by the Office for its purported disclosure of “material detail such as the types of polymers or the properties associated therewith” Office Action at ¶ 11.

For at least the above-recited reasons, Applicants respectfully submit that claim 1 is patentably distinguishable over the *Shunichi* and *Ogawa* in view of *Rieger*. Claims 4-7, which depend either directly or indirectly from claim 1, are also patentably distinguishable for at least the same reasons as discussed above. Accordingly, Applicants respectfully request that the Office withdraw the 35 U.S.C. § 103(a) rejection of claims 4-7.

The Office has rejected claims 8-10 under 35 U.S.C. § 103(a) as being unpatentable over *Shunichi* and *Ogawa* in view of JP 5-117491 to Yamamoto (hereinafter *Yamamoto*). Office Action at ¶ 12. As stated above, *Shunichi* and *Ogawa* fail to disclose at least a “leg pad [that] includes:

- a first member in contact with a floor having the washing machine installed thereon, and
- a second member in contact with the first member, wherein one of the first member and the second member is formed of a block copolymer of hard blocks and soft blocks, and
- the other one of the first member and the second member is formed of a second material.

as recited in claims 8-10 by virtue of their dependencies from independent claim 1. *Yamamoto* fails to cure the deficiencies of *Shunichi* and *Ogawa*. Here the subject matter of claim 1 is to solve a technical problem that is generated when the leg pad is configured of only the block copolymer. In other words, because the block copolymer may undergo plastic deformation over time, degradation vibration attenuation can result when the leg pad is configured of only the block copolymer. Accordingly, as is recited in claim 1, the leg pad further includes a member formed of other material for preventing the degradation vibration attenuation of the block copolymer. However, *Yamamoto* only discloses the technical feature that the copolymer includes a vibration damping material for improving the vibration attenuation of the copolymer. Therefore, Applicant asserts that the technical feature taught by *Yamamoto* is clearly different than the subject matter of claim 1.

For at least the above-recited reasons, Applicants respectfully submit that claim 1 is patentably distinguishable over the *Shunichi* in view of *Yamamoto*. Claims 8-10, which depend either directly or indirectly from claim 1, are also patentably distinguishable for at least the same reasons as discussed above. Accordingly, Applicants respectfully request that the Office withdraw the 35 U.S.C. § 103(a) rejection of claims 8-10.

The Office has rejected claim 15 under 35 U.S.C. § 103(a) as being unpatentable over *Shunichi* and *Ogawa* in view of U.S. Patent No. 6,914,091 to Donald et al. (hereinafter

Donald). Office Action at ¶ 13. As stated above, *Shunichi* and *Ogawa* fail to disclose at least a “leg pad [that] includes:

- a first member in contact with a floor having the washing machine installed thereon, and
- a second member in contact with the first member, wherein one of the first member and the second member is formed of a block copolymer of hard blocks and soft blocks, and
- the other one of the first member and the second member is formed of a second material.

as recited in claim 15 by virtue of its dependency from independent claim 1. *Donald* fails to cure the above deficiencies of *Shunichi* and *Ogawa*. Indeed, *Donald* was offered by the Office for its purported teaching of using flexible block copolymers that include triblock and multi-block formations.

For at least the above-recited reasons, Applicants respectfully submit that claim 1 is patentably distinguishable over *Shunichi* and *Ogawa* in view of *Donald*. Claim 15, which depends indirectly from claim 1, is also patentably distinguishable for at least the same reasons as discussed above. Accordingly, Applicants respectfully request that the Office withdraw the 35 U.S.C. § 103(a) rejection of claim 15.

Applicants believe the application in condition for allowance and early, favorable action is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

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